

**NOT FOR PUBLICATION**

**UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY**

CHAMBERS OF  
**SUSAN D. WIGENTON**  
UNITED STATES DISTRICT JUDGE

MARTIN LUTHER KING COURTHOUSE  
50 WALNUT ST.  
NEWARK, NJ 07101  
973-645-5903

January 25, 2018

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**LETTER OPINION FILED WITH THE CLERK OF THE COURT**

**Re: University Spine Center v. Blue Shield of California  
Civil Action No. 17-11371 (SDW) (CLW)**

Counsel:

Before this Court is Defendant Blue Shield of California's ("Defendant") Motion to Dismiss Plaintiff University Spine Center's ("Plaintiff") Complaint pursuant to Federal Rule of Civil Procedure 12(b)(1) and (6). This Court having considered the parties' submissions, and having reached its decision without oral argument pursuant to Federal Rule of Civil Procedure 78, for the reasons discussed below, **GRANTS** Defendant's motion.

**DISCUSSION**

Between February 15, 2016 and April 11, 2016, Plaintiff, a healthcare provider located in Passaic County, New Jersey, provided medical services to Marisa M. ("Patient"). (Compl. ¶¶ 4-6.) Plaintiff obtained an assignment of benefits from Patient in order to bring a claim under the Employee Retirement Income Security Act of 1974 ("ERISA"), 29 U.S.C. § 1002, *et seq.* (*Id.* ¶ 7.) Plaintiff then demanded reimbursement from Defendant in the amount of \$302,190.00, of which Defendant paid \$4,289.68. (*Id.* ¶¶ 8-9.) Plaintiff alleges that it "engaged in the applicable administrative appeals process maintained by Defendant" but Defendant denied the appeal and, in

addition, refused to provide requested documents, including a copy of “the Summary Plan Description, Plan Policy, and identification of the Plan Administrator/Plan Sponsor.” (*Id.* ¶¶ 10-11.) Plaintiff subsequently filed a three-count Complaint in the Superior Court of New Jersey, Law Division, Passaic County, alleging breach of contract, failure to make payments pursuant to Patient’s Plan, and breach of fiduciary duty. (Dkt. No. 1-1.) Defendant removed to this Court on November 7, 2017 and moved to dismiss the Complaint one week later. (Dkt. Nos. 1, 3.)

The facts of this case are virtually identical to those in *University Spine Center v. Blue Shield of California*, Civ. No. 17-8673, 2017 WL 5513688 (D.N.J. Nov. 16, 2017). Indeed, with the exception of the name of the patient, the precise medical procedures provided, and the monetary amounts in question, the complaints in the two suits are the same. The suits were brought by the same counsel, filed within weeks of each other, contain the same allegations, and seek the same relief. As there are no meaningful substantive differences between the two matters, this Court adopts the reasoning set forth in the November 16, 2017 decision in *University Spine Center*, 2017 WL 5513688, and grants Defendant’s Motion to Dismiss.

## **CONCLUSION**

Defendant’s Motion to Dismiss the Complaint is **GRANTED**. An appropriate order follows.

/s/ Susan D. Wigenton

SUSAN D. WIGENTON, U.S.D.J.

Orig: Clerk  
cc: Parties  
Cathy L. Waldor, U.S.M.J.